

8/27/2019

FW: osher conversion

Ari Kluger

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From: "Mark A. Absher" <mark.absher@shiftpixy.com>

Date: Thursday, December 27, 2018 at 2:47 PM

To: Seeking Alpha <akluger@lhfin.com>

Cc: Scott Absher <scott.absher@shiftpixy.com>, Patrice Launay <patrice.launay@shiftpixy.com>, michael williams <michael@gopublicdirect.com>, Jason Diamond <jdiamond@drexelhamilton.com>

Subject: RE: osher conversion

Thank-you for the clarification. That's helpful.

Mark Absher

Registered In-House Counsel

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From: Ari Kluger <akluger@lhfin.com>
Sent: Thursday, December 27, 2018 11:43 AM
To: Mark A. Absher <mark.absher@shiftpixy.com>
Cc: Scott Absher <scott.absher@shiftpixy.com>; Patrice Launay <patrice.launay@shiftpixy.com>; michael williams <michael@gopublicdirect.com>; Jason Diamond <jdiamond@drexelhamilton.com>
Subject: Re: osher conversion

The investor has monthly amortization payments which is priced based off of the vwap provision

The investor has the right defer each monthly amortization and then can choose to accelerate up to 3 monthly amortization payments every month

these conversions for both alpha and osher are accelerated amortization payments

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From: "Mark A. Absher" <mark.absher@shiftpixy.com>
Date: Thursday, December 27, 2018 at 2:38 PM
To: Seeking Alpha <akluger@lhfin.com>
Cc: Scott Absher <scott.absher@shiftpixy.com>, Patrice Launay <patrice.launay@shiftpixy.com>, michael williams <michael@gopublicdirect.com>, Jason Diamond <jdiamond@drexelhamilton.com>
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Ari—

We are just wondering why the investor is claiming a right to a VWAP discount on conversion as opposed to price of \$2.49/share, given the following language of the note:

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b) Conversion Price. The conversion price in effect on any Conversion Date shall be equal to \$2.49, subject to adjustment herein (the “Conversion Price”). However, from and after the Maturity Date, the Conversion Price shall be equal to the lesser of (i) the then Conversion Price and (ii) 85% of the VWAP for the Trading Day immediately prior to the applicable Conversion Date. Nothing herein shall limit a Holder’s right to pursue actual damages or declare an Event of Default pursuant to Section 8 hereof and the Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit the Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

I note that the Maturity Date is September 4, 2019.

Can you explain?

Thanks.

Mark Absher



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From: Ari Kluger <akluger@lhfin.com>
Sent: Thursday, December 27, 2018 10:41 AM
To: Mark A. Absher <mark.absher@shiftpixy.com>; Ayisha Ali <ayisha@vstocktransfer.com>; Joseph Donohue <joseph@vstocktransfer.com>
Cc: Scott Absher <scott.absher@shiftpixy.com>; Patrice Launay <patrice.launay@shiftpixy.com>; michael williams <michael@gopublicdirect.com>
Subject: osher conversion